

**BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM**

EXECUTIVE SUMMARY FOR ACTION ON RULE AMENDMENTS

Agenda # III.A.6

Agenda Item Summary: The Department requests that the Board initiate rulemaking to amend certain air quality open burning rules.

List of Affected Rules: ARM 17.8.601, 604, 605, 606, 610, 612, and 614.

Affected Parties Summary: The proposed rule amendments could affect all minor open burning sources regulated by the Department under Title 17, chapter 8, subchapter 6, "Open Burning".

Scope of Proposed Proceeding: The Department requests that the Board initiate rulemaking and conduct a public hearing to consider the proposed amendments.

Background: The proposed rule amendments would revise conditional, essential agricultural, and minor source open burning rules to allow for certain minor open burning in winter to be conducted, primarily in eastern Montana. The proposed amendments revise the time periods, materials, and criteria applicable to such open burning.

The current rules allow only prescribed wildland open burning, open burning to train firefighters, emergency open burning, and essential agricultural open burning to take place during the winter season (December through February). These burns are generally larger and create greater impacts than other minor open burning sources. The proposed amendments would allow all types of non-prohibited minor open burning to take place during the winter season. Burns located outside of the Eastern Montana Open Burning Zone would be subject to Department review and would require prior approval from the Department. Those burning in the Eastern Montana Open Burning Zone would still be required to notify the Department prior to burning.

Current rules allow landfill open burning permits to be valid for only 30 days and a single burn. Often such burns cannot be completed during the time the permit is valid. The proposed amendments would change the time these permits are valid to one year, and would require burn piles at licensed landfills to be inspected by the Department or its designated representative prior to every burn.

The current air quality open burning rules may be in conflict with the solid waste rules that regulate open burning conducted at licensed landfills, and the proposed amendments make the rules consistent with the state and federal solid waste rules that regulate such burning.

Minor editorial and grammatical changes are proposed that do not change the meaning of the rules but make them more readable.

Hearing Information: The Department recommends that the Board appoint a hearing officer and conduct a public hearing to take comment on the proposed amendments.

Board Options: The Board may:

1. Initiate rulemaking and issue the attached proposed Notice of Public Hearing on Proposed Amendment;
2. Modify the Notice and initiate rulemaking; or
3. Determine that amendment of the rules is not appropriate and deny the Department's request to initiate rulemaking.

DEQ Recommendation: The Department recommends that the Board appoint a hearing officer, initiate rulemaking, and conduct a public hearing, as described in the proposed rule notice.

Enclosures:

1. Proposed Notice of Public Hearing on Proposed Amendment.